



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Old Republic Insurance Company

MFDR Tracking Number

M4-16-2931-01

Carrier's Austin Representative

Box Number 44

MFDR Date Received

May 24, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The attached bill was denied by the insurance carrier. Reconsideration was submitted but denied/or never processed. We are now requesting Medical Fee Dispute Resolution."

Amount in Dispute: \$949.97

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Oral Meloxicam was not denied under the Peer Review Physician's retrospective review. DOS 11/16/15 for **oral Meloxicam 15mg #30 ONLY** should have been allowed. This drug, for this DOS has been re-reviewed and payment allowed with interest ... However, the compound drugs billed on DOS 11/16/15 for a compound topical cream were not considered medically necessary by two different physicians during two different retrospective reviews..."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 16, 2015	Meloxicam Tablets	\$202.85	\$0.00
November 16, 2015	Compound Cream	\$949.97	\$747.12

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
3. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical services.
4. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.

5. 28 Texas Administrative Code Chapter 19 sets out the procedures for utilization review.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 50 – Service not Deemed ‘Medically Necessary’ by payer
 - Notes: “These services have been retrospectively reviewed. Services that do not require preauthorization are subject to review for medical necessity in accordance with §133.230 of this title.”
 - Notes: “Except as provided in subsection (f)(1) of this section, drugs that do not require preauthorization are subject to retrospective review for medical necessity in accordance with §133.230 of this title.”

Issues

1. Did Old Republic Insurance Company (Old Republic) maintain its denial of the disputed Meloxicam 25 mg tablets?
2. Is Old Republic’s reason for denial of payment for the compound cream in question supported?
3. Is Memorial Compounding Pharmacy (Memorial) eligible for additional reimbursement for the disputed services?

Findings

1. Memorial is seeking reimbursement, in part, of \$202.85 for Meloxicam 15 mg tablets dispensed on November 16, 2015. Per submitted Explanation of Review dated June 3, 2016, and its position statement, Old Republic did not maintain its denial of this service, reimbursing \$185.68. Therefore, this service will be reviewed in accordance to applicable fee guidelines.
2. Memorial is also seeking reimbursement of \$747.12 for a compound cream consisting of Meloxicam, Flurbiprofen, Baclofen, Mefenamic Acid, Ethoxy Diglycol, Bupivacaine HCl, and Versapro Cream dispensed on November 16, 2015. Old Republic denied the disputed compound with claim adjustment reason code 50 – “Service not Deemed ‘Medically Necessary’ by payer,” and stating that “These services have been retrospectively reviewed. Services that do not require preauthorization are subject to review for medical necessity in accordance with §133.230 of this title.”

28 Texas Administrative Code §133.240(q) states that the insurance carrier is required to comply with 28 Texas Administrative Codes §§19.2009 and 19.2010 when denying payment based on an adverse determination, “including the requirement that prior to issuance of an adverse determination the insurance carrier shall afford the health care provider a reasonable opportunity to discuss the billed health care with a doctor or, in cases of a dental plan or chiropractic services, with a dentist or chiropractor, respectively.”

Review of the submitted documentation finds that Old Republic submitted a document dated November 13, 2015 for retrospective review of a compound. The division concludes that the submitted documentation does not support that Old Republic performed a retrospective utilization review of the services in question for the following reasons:

- Submitted documentation does not indicate or support that the health care provider, in this case, Memorial Compounding Pharmacy, was notified of the findings, or that Memorial was afforded a reasonable opportunity to discuss the billed compound.
- Because this review pre-dates the date of service in question, this document does not support that the date of dispense in question was retrospectively reviewed.

Old Republic’s denial reason is therefore not sufficiently supported. The disputed services will consequently be reviewed per applicable fee guidelines.

3. Rule at 28 Texas Administrative Code §134.503 provides the fee guidelines for the compound in dispute and states, in pertinent part:
 - (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:

- (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
- (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
- (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
- (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2). Meloxicam tablets and each ingredient of the compound is listed below with its corresponding reimbursement amount as applicable:

Ingredient	NDC & Type	Price Unit	Total Units	AWP Formula §134.503(a)(1)	Billed Amount §134.503(a)(2)	Lesser of (a)(1) and (a)(2)
Meloxicam 15 mg tabs	68382005105 Generic	\$4.8449	30 tabs	$(\$4.8449 \times 30 \times 1.25) + 4.00 = \185.68	\$202.85	\$185.68
Meloxicam Powder	38779274601 Generic	\$194.67	0.18 gm	$\$194.67 \times 0.18 \times 1.25 = \43.80	\$35.04	\$35.04
Flurbiprofen Powder	38779036209 Generic	\$36.58	6 gm	$\$36.58 \times 6 \times 1.25 = \274.35	\$210.90	\$210.90
Baclofen Powder	38779038809 Generic	\$35.63	3 gm	$\$35.63 \times 3 \times 1.25 = \133.61	\$102.60	\$102.60
Mefenamic Acid Powder	38779066906 Generic	\$123.60	1.8 gm	$\$123.60 \times 1.8 \times 1.25 = \278.10	\$222.48	\$222.48
Ethoxy Dyglycol	38779190301 Generic	\$0.342	3 ml	$\$0.342 \times 3 \times 1.25 = \1.28	\$1.03	\$1.03
Bupivacaine HCl Powder	38779052405 Generic	\$45.60	1.2 gm	$\$45.60 \times 1.2 \times 1.25 = \68.40	\$48.02	\$48.02
Versapro Cream Base	38779252903 Brand-Name	\$3.20	44.82 gm	$\$3.20 \times 44.82 \times 1.09 = \156.33	\$112.05	\$112.05
NA	NA	NA	NA	\$15.00 fee	\$15.00	\$15.00
Total						\$932.80

The total reimbursement amount is \$932.80. Old Republic Insurance Company reimbursed \$185.68. An additional reimbursement of \$747.12 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$747.12.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$747.12, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____ Signature	Laurie Garnes _____ Medical Fee Dispute Resolution Officer	June 8, 2017 _____ Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.